

2012-13 NEW YORK STATE EXECUTIVE BUDGET

MERGE STATE ENTITIES

MEMORANDUM IN SUPPORT

2012-13 NEW YORK STATE EXECUTIVE BUDGET

MERGE STATE ENTITIES

ARTICLE VII LEGISLATION

MEMORANDUM IN SUPPORT

CONTENTS

PART	DESCRIPTION	STARTING PAGE NUMBER
A	Merge the Division of the Lottery and the Racing and Wagering Board into the new New York State Gaming Commission.	5
B	Merge the Department of Civil Service and the Office of Employee Relations into a new Department of Workforce Management.	6
C	Transfer the operation and management of the Belleayre Mountain ski center from the Department of Environmental Conservation to the Olympic Regional Development Authority to foster more efficient operations.	7
D	Elimination and/or merger of certain boards and commissions to foster more efficient government.	9

MEMORANDUM IN SUPPORT

A BUDGET BILL submitted by the Governor in
Accordance with Article VII of the Constitution

AN ACT to amend the to amend the racing, pari-mutuel wagering and breeding law, in relation to supervision and regulation of the state gaming industry; and to amend the racing, pari-mutuel wagering and breeding law, the general municipal law, the executive law and the tax law, in relation to the state gaming commission; and to repeal article 1 of the racing, pari-mutuel wagering and breeding law and sections 1602 and 1603 of the tax law relating thereto (Part A); to amend the civil service law, in relation to the formation of the department of workforce management; and transferring all powers, duties and obligations of the department of civil service and the office of employee relations to the department of workforce management; and to repeal certain provisions of the executive law relating to the office of employee relations (Part B); to amend the public authorities law, in relation to an agreement between the olympic regional development authority and the department of environmental conservation for the operation, maintenance and management of Belleayre mountain ski center (Part C); and to repeal section 285-a and subdivision 12 of section 283 of the agriculture and markets law, relating to direct marketing advisory councils for regional marketing areas; to repeal section 7 of chapter 654 of the laws of 1994, amending the transportation law and other laws relating to equipment requirements for registered farm vehicles, relating to the agricultural transportation review panel; to repeal section 285-b of the agriculture and markets law, relating to the Hudson valley agricultural advisory council; to repeal article 4 of the state technology law, relating to the statewide wireless network

advisory council; to repeal section 372-a of the social services law, relating to the child welfare research advisory panel; to amend the public health law, in relation to provision of information about the abandoned infant protection act; to repeal sections 520 and 521 of the executive law, relating to the boards of visitors; to repeal article 28 of the executive law and paragraph (p) of subdivision 1 of section 17 of the public officers law, relating to the upstate and downstate New York tourism councils; to repeal section 92-y of the state finance law, relating to the upstate New York tourism council fund; to amend the highway law and the education law, in relation to removing reference to the upstate and down-state New York tourism councils; to repeal section 120 of the economic development law, relating to the advisory board within the division of minority and women's business development; to repeal section 27-0702 of the environmental conservation law, relating to the solid waste management board; to amend the environmental conservation law and the state finance law, in relation to removing reference to the solid waste management board; to amend the public authorities law, in relation to doing away with a technical advisory committee and the hazardous waste disposal advisory committee and to repeal certain provisions of law relating thereto; to repeal section 216-b of the vehicle and traffic law, relating to the tow truck advisory board; to repeal section 191 of the executive law, relating to the temporary advisory committee on restoration and display of New York state's military battle flags; to repeal subdivision 9 of section 3.23 of the parks, recreation and historic preservation law, relating to the advisory council within the New York state conservation corps; to repeal section 89-mmm of the general business law, relating to the armored car carrier advisory board; to amend the executive law and the general

business law, in relation to removing reference to the armored car carrier advisory board and to repeal certain provisions of the general business law relating thereto; to repeal section 923 of the executive law, relating to the Long Island Sound coastal advisory commission; to repeal subdivision 14 of section 601 and sections 611 and 612 of the executive law, relating to the manufactured housing advisory council; to amend the executive law, in relation to removing reference to the manufactured housing advisory council; to repeal section 433-a of the general business law, relating to the barbers board; to amend the social services law, in relation to doing away with the advisory committee on legal advocacy; to repeal subdivisions 8 and 9 of section 350, subdivision 16 of section 353, and sections 365, 365-a, 365-b, 365-c, 365-d, 365-e, 365-f and 365-g of the executive law, relating to the veterans' hall of fame and the New York state veterans' hall of fame council; to repeal section 154 of the labor law, relating to the child performer advisory board to prevent eating disorders; to repeal title 11 of article 24 of the environmental conservation law, relating to appeal and review of matters affecting freshwater wetlands; to amend the environmental conservation law, in relation to appeal and reviews of matters affecting freshwater wetlands; to repeal subdivision 3 of section 1-0303, article 5, section 19-0917 and subdivision 4 of section 29-0103 of the environmental conservation law, relating to the state environmental board; to amend the environmental conservation law, in relation to removing reference to the state environmental board; to repeal sections 9-0705, 9-0707, 9-0709 and 9-0711 of the environmental conservation law, relating to the regional forest practice boards and the state forest practice board; to amend the environmental conservation law, in relation to removing reference to the regional forest practice boards; to repeal subdivision 1 of

section 444-b of the real property law, relating to the state home inspection council; to amend the real property law, in relation to removing reference to the state home inspection council; to repeal subdivision 6 of section 69-n of the general business law, in relation to the advisory committee on the business of installing security or fire alarm systems; to repeal chapter 868 of the laws of 1976 relating to the organic food advisory committee, relating thereto; to repeal subdivisions 6, 7, 8, and 9 of section 73-b of the agriculture and markets law, relating to the New York state veterinary diagnostic laboratory; to amend the agriculture and markets law, in relation to duties of the New York state veterinary diagnostic laboratory and in relation to the New York state animal health issues committee; to repeal section 13-0308 of the environmental conservation law, relating to the surf clam/ocean quahog management advisory board; to amend the environmental conservation law and the state finance law, in relation to removing reference to the surf clam/ocean quahog management advisory board; to amend the public health law, in relation to simplifying committee structure and increasing effectiveness of emergency medical services; to repeal sections 3002, 3002-a, 3003-a, 3009 and 3017 of the public health law, relating to the New York state emergency medical services council, the state emergency medical advisory committee, EMS program agencies, continuation of existing services and emergency medical services in Suffolk county; to amend the public health law, in relation to providing for the New York state emergency medical services board and regional boards; to repeal articles 30-B and 30-C of the public health law, relating to emergency medical, trauma and disaster care and emergency medical services for children; to amend the state finance law, in relation to the New York state emergency medical services training account; to amend

the administrative code of the city of New York, the general municipal law, the workers' compensation law, the executive law and the education law, in relation to making conforming changes there- to; to repeal section 2407 and subdivision 5 of section 2409 of the public health law, relating to the breast and cervical cancer detection and education program advisory council and the ovarian cancer information advisory council; to amend the public health law, in relation to creating the breast, cervical and ovarian cancer detection and education program advisory council; and to repeal section 844-a of the executive law, relating to the New York statewide law enforcement telecommunications committee (Part D)

PURPOSE:

This bill contains provisions needed to implement the 2012-13 Executive Budget. The bill provides for several State entity mergers to enhance operational effectiveness and efficiencies.

This memorandum describes Parts A through D of the bill which are described wholly within the parts listed below.

Part A – Merge the Division of the Lottery and the Racing and Wagering Board into the new New York State Gaming Commission.

Purpose:

This bill would reorganize various State gaming regulatory functions and consolidate all functions into a single oversight body with broad regulatory powers.

Statement in Support, Summary of Provisions, Existing Law, and Prior Legislative History:

This bill would replace the Racing and Wagering Law's existing Article 1 with a new Article establishing the New York State Gaming Commission and make conforming changes to Executive Law Article 19-B (State Bingo Control Commission); General Municipal Law Articles 9-A (Local Option for Conduct of Games of Chance by Certain Organizations) and 14-H (Local Option for Conduct of Bingo by Certain Organizations); and Tax Law Article 34 (New York State Lottery for Education). Additionally, an independent N.Y.S. Office of Racing Development and Promotion would be established

to take over the operational aspects of the New York State Thoroughbred Breeding and Development Fund, the Agriculture and New York State Horse Breeding Development Fund, and the New York State Quarter Horse Breeding and Development Fund.

Under existing law, various State agencies, commissions and public benefit corporations exercise powers and duties relative to horse racing and gaming activity within the State.

The gaming industries constitute a vital sector of New York State's overall economy and their continued growth would contribute to economic development and job creation in New York State. At present, there is no overall coordination of gaming policy and regulation. Regulation of gaming must be conducted in the most efficient, transparent and effective manner possible. Consolidation of various regulatory functions into a single oversight body with broad powers would increase efficiency, reduce costs and eliminate unnecessary regulation redundancies.

A robust regulatory structure would ensure all gaming activity conducted in the State would be of the highest integrity, credibility, and quality, and that the best interests of the public, both gaming and non-gaming, would be served.

Budget Implications:

Enactment of this bill is necessary to implement the 2012-13 Executive Budget as it would promote increased efficiency, cost reduction and the elimination of unnecessary regulation redundancies.

Effective Date:

This bill would take effect on May 1, 2012.

Part B – Merge the Department of Civil Service and the Office of Employee Relations into a new Department of Workforce Management.

Purpose:

This bill merges the operations of the Department of Civil Service (DCS) and the Office of Employee Relations (OER) into a new Department of Workforce Management (DWM).

Statement in Support, Summary of Provisions, Existing Law, and Prior Legislative History:

DCS provides human resource management services to State and local governments and assists State agencies with personnel recruitment and placement services, administers tests, oversees job classifications, and administers benefits. OER works to advance the performance of State government through collaborative labor relations,

workforce training, education and benefits. This bill consolidates these two related entities in order to eliminate duplication and streamline management of the state workforce.

The Civil Service Commission and the Public Employee Relations Board will continue to function as independent bodies. The Civil Service Commission will continue to receive administrative support from the new agency.

Budget Implications:

Enactment of this bill is necessary to implement the 2012-13 Executive Budget as it is expected to improve management of the State's workforce and facilitate the reorganization of state government.

Effective Date:

This bill takes effect July 1, 2012.

Part C – Transfer the operation and management of the Belleayre Mountain ski center from the Department of Environmental Conservation to the Olympic Regional Development Authority to foster more efficient operations.

Purpose:

This bill would transfer the operation and management of the Belleayre Mountain ski center (Belleayre) from the Department of Environmental Conservation (DEC) to the Olympic Regional Development Authority (ORDA), which will foster more efficient operations.

Statement in Support, Summary of Provisions, Existing Law, and Prior Legislative History:

Belleayre is currently operated and managed by DEC. In conducting its review of State government and providing independent guidance and advice in recommending structural and operational changes, the SAGE Commission found that Belleayre, an intensive use area of the Forest Preserve lands in the Catskills, has required financial support from DEC in each of the past five years to cover operating losses and capital investment. Additionally, community leaders from the area near Belleayre have raised concerns that, given DEC's broad responsibilities for managing State-owned land and regulating air, water and solid waste facilities, the Department might not be the best long-term manager of Belleayre.

The Legislature reached a similar conclusion with respect to DEC's prior operations of other ski areas. For example, DEC was responsible for operating and maintaining both the Whiteface Mountain and Gore Mountain ski centers, and other facilities related to the 1980 Winter Olympics. In 1981, after the completion of the Olympic games, the

State enacted Title 28 of Article 8 of the Public Authorities Law (PAL) to create ORDA for the purpose of operating, managing and maintaining the facilities associated with the Olympics, including the ski center at Whiteface Mountain. ORDA's responsibilities were expanded in 1984 to include the operation and management of the Gore Mountain ski center, which had also previously been operated by DEC. Both the Whiteface Mountain and Gore Mountain ski centers are located in areas classified within the Adirondack Park State Land Master Plan as "intensive use." Through its operation of the two ski centers, ORDA has proven that it has the requisite experience and expertise to manage ski centers profitably, and in a manner that both benefits the local community and complies with management practices associated with Forest Preserve lands. Accordingly, the SAGE Commission determined that Belleayre could be more effectively and efficiently operated, maintained and managed by ORDA.

The provisions in this bill would:

- Amend PAL § 2608 to increase the number of members of ORDA from ten members to eleven, and provide that one of the members shall be a resident of Ulster or Delaware County;
- Authorize ORDA to enter into an agreement with DEC to operate, maintain and manage Belleayre in accordance with its existing power provided in PAL Article 8, Title 28 and any other law, including those pertaining to other Olympic facilities;
- Provide that ORDA shall include the funds required for the operation of Belleayre in the budget to be made and delivered by the Chairman of ORDA;
- Provide authority to ORDA to undertake capital improvements and major repairs to Belleayre;
- Confer exclusive jurisdiction on the court of claims to hear and determine any claims brought against ORDA arising out of its operation of Belleayre; and
- Provide for the transfer of employees and all remaining appropriations and reappropriations from DEC to the Authority.

Budget Implications:

Enactment of this bill is necessary to implement the 2012-13 Executive Budget because Belleayre can be more effectively and efficiently operated, maintained and managed by ORDA and the transfer of such responsibilities to ORDA would allow DEC to focus resources on core-mission related activities.

Effective Date:

This bill takes effect immediately.

Part D – Elimination and/or merger of certain boards and commissions to foster more efficient government.

Purpose:

This bill would eliminate certain boards and commissions that are no longer active, or whose missions have been completed or become redundant, and merge other boards that have related missions, which would collectively foster more efficient government.

Statement in Support, Summary of Provisions, Existing Law, and Prior Legislative History:

There are several hundred advisory boards and commissions that have been established pursuant to statute. The Spending and Government Efficiency (SAGE) Commission established pursuant Governor Cuomo's Executive Order No. 4 has, among other things, carefully reviewed the statutory missions and responsibilities of many of these entities to determine whether they still provide an essential government purpose. This bill – the result of that review – would (i) eliminate those boards and commissions that have accomplished their mission and/or no longer have a significant governmental purpose, and (ii) merge together certain boards that have related functions and would be more efficiently operated as single entity.

Several categories of boards would be eliminated or merged, as follows:

- **Several boards included in the bill are inactive.** For example, the Direct Marketing Advisory Council, created by Agriculture and Markets Law § 285, has not convened in over two years, currently has no members, and alternative entities already assist in coordinating the marketing of farm and food products. Similarly, the Surf Clam/Ocean Quahog Management Advisory Board, created by Environmental Conservation Law (ECL) § 13-0308, has not met since 2008 and the Department of Environmental Conservation (DEC) is utilizing informal approaches to discussing management for these fisheries with local stakeholders. Another entity, the Environmental Facilities Corporation Technical Advisory Committee, created under Public Authorities Law (PAL) § 1285-d(3), has not been constituted for at least twenty years.
- **Completion of missions.** Several boards have either completed, or are nearing completion of, their missions. For example, the Child Performer Advisory Board to Prevent Eating disorders, created by Labor Law 154 in 2007, has fulfilled its task, and the Department of Labor has used the board's input to develop programs to address eating and related issues associated with child performers. Similarly, the NYS Statewide Law Enforcement Telecommunications Committee, created by Executive Law § 844-a in 1991, has become obsolete given the technological advances in this area.
- **Replacement by alternative processes.** Several agencies have found that the missions of some boards are more appropriately addressed directly by the agency or through a more informal stakeholder process. For example, the State Forest Practices

Board, a remnant of the old Conservation Law, was established to provide forest practice standards. DEC, however, solicits input from all conservation and industry stakeholders prior to formulating any standards in this area, a process that the agency finds more effective. Similarly, the NYS Security or Fire Alarm Installer Advisory Committee, created under General Business Law Article 6-D, was established prior to the Department of State having expertise in this area, and can now be replaced based on the agency's years of work on matters related to fire alarms and its frequent dialogue with stakeholders through informal channels. Another entity, the State Environmental Board, consists mostly of members of other State agencies, which must review many of DEC's regulations before they may be posted as final. Again, DEC uses a significant public outreach process with respect to all of its regulatory programs and the Environmental Board, another remnant of the Conservation Law, is no longer necessary. Indeed, the cost of holding Environmental Board meetings is approximately \$7,500 per year.

- **Mergers.** Finally, the bill would merge several boards that have a similar or related missions. For example, the Ovarian Cancer Information Advisory Board would be merged with the Breast and Cervical Cancer Detection and Education Advisory Committee. Given that Department of Health already facilitates the issues addressed by the two boards and the similar and often competing research and funding needs associated with cancer research, it makes sense to address the future needs of the important issue areas covered by the boards as a single organization. Similarly, the bill would merge four-related emergency medical services boards which is serviced by the same person. Having all of the boards under a single umbrella organization would better coordinate the needs of medical emergency responders and related entities.

In sum, a critical way to address the economic challenges that New York faces is by tipping the balance in favor of efficiency. The bill achieves that goal through elimination of certain boards and commissions that have outlived their usefulness, and the merger of certain boards that have similar missions.

Budget Implications:

Enactment of this bill is necessary to implement the 2012-13 Executive Budget because it would allow the applicable State agencies to operate more efficiently and focus on their core missions.

Effective Date:

This bill takes effect immediately, provided that:

(a) the amendments to the opening paragraph of ECL § 13-0309(15), made by section 74 of the act, shall take effect on the same date as the reversion of such subdivision as provided in section 21 of chapter 158 of the laws of 2011;

(b) the amendments to PHL § 300S-b, made by section seventy-six of the act shall not affect the repeal of such section and shall be deemed repealed therewith;

(c) sections forty-two, forty-three, forty-four, forty-five, forty six, forty-seven and forty-eight of the act shall take effect upon the resolution of all appeals pending before the freshwater appeals board; provided, however, that such board, created by ECL Article 24, Title 11, as repealed by section forty-two of this act, shall not accept any new cases as of the effective date of this act, and

(d) the DEC Commissioner shall notify the legislative bill drafting commission upon the resolution of all appeals pending before the freshwater appeals board in order that the commission may maintain an accurate and timely effective date data base of the official text of the laws of the state of New York in furtherance of effectuating the provisions of section 44 of the legislative law and section 70-b of the public officers law.

The provision of this act shall take effect immediately, provided, however, that the applicable effective date of each part of this act shall be as specifically set forth in the last section of such part.